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FILE NO.: 14747.0003

October 26, 2018

Via ECF

The Honorable James Orenstein
United States Magistrate Judge
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: ***Lysyak v. Home Attendant Service of Hyde Park, Inc.***
Docket No.: 18-CV-259

Dear Magistrate Judge Orenstein:

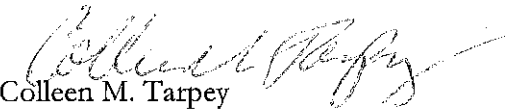
As the Court is aware, this firm represents Defendant in this matter. Plaintiff filed her October 25, 2018 letter with the Court on the eve of this morning's conference, without an opportunity for us to address the items therein in writing with the Court. Accordingly, we file the attached letter sent to opposing counsel this afternoon, solely to complete the docket with respect to Plaintiff's letter.

In addition, with regard to Mrs. Tarpey's inability to attend this morning's conference, she was actually engaged before the Honorable Anne E. Minihan, J.S.C., in Westchester County for a hearing pursuant to Article 9 of the New York State Mental Hygiene Law. Her attendance had been scheduled in advance and, as she had prepared witnesses and reviewed records related to the hearing, and because no one was available at 7:18 p.m. last night, when Plaintiff's counsel's letter was docketed, to take the matter over, her attendance in that matter could not be avoided so as to permit her to appear before Your Honor this morning.

Respectfully submitted,

/s/ Salvatore Puccio

Salvatore Puccio


Colleen M. Tarpey

cc: All counsel of record by ECF

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FILE NO.: 14747.0003.

October 26, 2018

Via E-Mail

Steven L. Wittels
James Burkett McInturff, III
Law Offices of Steven L. Wittels
18 Half Mile Road
Armonk, New York 10504

Re: *Lysyak v. Home Attendant Service of Hyde Park, Inc. -*
Docket No. 18-CV-259

Dear Counsel:

On behalf of Defendant, we write to provide the below information concerning the requests listed in your October 25, 2018 letter:

1. The substance of the text message and robocall notice:

We generally approve of the draft that you sent on October 9, 2018, but as discussed during our October 12 call, we request that you include the word “alleged” before the word “unpaid” in both the text message and robocall notice. If you make this change, we agree with the substance.

2. The substance of the reminder notice, reminder text message, and reminder robocall notice.

The reminder notice that you sent on October 9, 2018 is acceptable. With respect to the reminder text message and reminder robocall that you sent on October 9, 2018, we ask that you include the word “alleged” before the word “unpaid”. If you make this change, we agree with the substance of the reminder text message and reminder robocall notice.

3. The FLSA Notice Period

This was resolved during the conference held today before Magistrate Judge Orenstein.

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October 26, 2018

Page 2

4. Sampling Wage Notices

We will provide you with unique identifiers that can be used to randomize the set of numbers for January 15, 2012 to the present. Some of this information will have to be retrieved from third-parties, but our client is actively working on the request.

5. Sampling Payroll Data

This was resolved during the conference held today before Magistrate Judge Orenstein.

6. ESI Protocol

We reviewed your ESI protocol and made some minor revisions. Please find enclosed a redline of our changes and a signed copy of the revised agreement.

7. The production of named Plaintiff's and opt-in Plaintiff's personnel files

Please find enclosed documents bates stamped HP-0000001-0000461. Given the time constraints imposed by the Court, we marked PHI confidential. Please be aware that the documents contain personal information of your client and you should treat such documents as Confidential under the terms of the Protective Order.

8. A stipulation regarding the Wage Parity Act

We are finalizing our client's position. We will discuss further during the meet and confer.

9. Rule 26(f) disclosures regarding potential ESI sources

To the extent that this issue related to the May 10, 2018 letter that you sent to us regarding Hyde Park's provision of information regarding its computer systems and network, we will discuss at the meet and confer.

10. The production of corporate organization charts and phone directories

Please see documents bates stamped, HP-0000462, which is Hyde Park's current phone directory.

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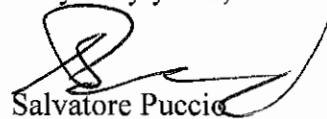
October 26, 2018

Page 3

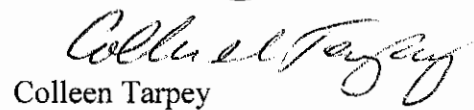
11. The production of document retention/destruction and auto-delete policies.

As discussed, we have conferred with our client on this issue and we have not located any written retention/destruction and auto-delete policies. We will continue to review and discuss at the meet and confer.

Very truly yours,



Salvatore Puccio



Colleen Tarpey

SP:lmr

Enclosures

cc: Gillian Barkins, Esq.
Sharon Samuel Ourien, Esq. (by email)
Seth Teleky (by email)

GARFUNKEL WILD, P.C.